WISCONSIN CAREGIVER PROGRAM:
A BLUEPRINT FOR QUALITY CARE

The State of Wisconsin, to help ensure that our most vulnerable citizens receive the ultimate in safe and compassionate care, passed the Wisconsin Caregiver Law. The Caregiver Law requires health care facilities to report incidents of caregiver misconduct and some injuries of unknown source to the Department of Health and Family Services.

Caregiver misconduct means:

- ✓ abuse of a client,
- ✓ neglect of a client, or,
- ✓ misappropriation of a client's property.

Abuse – is an act that contradicts a health care facility's policy and procedures and is intended to cause harm. The harm may be physical, mental or emotional and it may result in pain, injury, or death. Examples of abuse include:

- Physical abuse – hitting, slapping, pinching, kicking;
- Sexual abuse – harassment, inappropriate touching, assault;
- Verbal abuse – threats of harm, saying things to intentionally frighten a client; and
- Mental abuse – humiliation, harassment, intimidation with threats of punishment or depriving care or possessions.

Neglect – is the intentional carelessness, negligence, or disregard of policy, or care plan, which causes, or could be reasonably expected to cause pain, injury, or death. The major difference between abuse and neglect is that in a case of abuse harm was intended; in neglect the caregiver does not intend to harm the client.

Misappropriation – is an action such as theft of a client's money, credit cards or jewelry, or misuse of personal property, such as using a client's phone or other personal property without consent.

Injury of unknown source – is an injury that occurs to a client where the source of the injury is not immediately apparent when the injury is discovered.

CASE EXAMPLES:

Review the following case examples and determine if you witnessed acts of abuse, neglect or misappropriation or an injury of unknown source. Are there steps that could have been taken to prevent the misconduct, or other ways to respond to the situation? Time will be allowed to discuss your observations.

Case Example One:
A client's care plan clearly states that any assisted lift is to be carried out by two caregivers. It's been a particularly hectic shift and no one else appears to be available to help. The client needs to be moved; the caregiver is alone and has often completed such a lift single handedly. It's no big deal. However, in the course of the move the client shifts her weight, the caregiver loses her balance, and the client falls. The fall results in the client breaking a hip. Is this a case of abuse or neglect or neither? How could this have been avoided?

Discussion Notes:

Case Example Two:
An Alzheimer's patient has been continuously pushing the call light. Each time the staff person on duty responds, there appears to be nothing wrong. Finally, exasperated, the staff person disconnects the call light and returns to other duties. Is this any form of caregiver misconduct? Are there other options?

Discussion Notes:

Case Example Three:
While providing home care to a client, a caregiver has occasionally needed to make long distance personal phone calls. After a number of visits, the caregiver finds that the client usually requires up to a half-hour in the bathroom. No assistance is needed during this time. This seems like a convenient time to take care of long distance personal calls without the client's permission or knowledge. The caregiver uses the client's phone but always breaks off the conversation at once if the client calls for assistance. What do you have to say about this situation?

Discussion Notes:

Case Example Four:
A caregiver overhears a nurse aide co-worker, shout loudly to a resident "Will you shut up! I am sick and tired of cleaning up your disgusting messes! You make me sick!" The caregiver hears the resident begin to cry. Later that day, the caregiver notices that the resident, who is usually very outgoing and has a great appetite, just picks at her food and speaks to no one. What is going on here? What should the caregiver overhearing the incident do?

Discussion Notes:

Case Example Five:
An alert client complains to a caregiver of a constant pain in her left arm. The caregiver says she probably slept on it, and leaves her alone in the room. The next day the client is crying with pain so the caregiver reports the status of the client to the shift supervisor. An X-ray reveals a fracture. What could the caregiver have done differently? Could this be caregiver misconduct?

Discussion Notes:

REPORTING REQUIREMENTS

✓ Your Responsibility

All staff persons must immediately report incidents of suspected caregiver misconduct or injuries of unknown source to a person of authority in their health care facility. It is then the facility's responsibility to decide how to proceed.

✓ Facility Responsibility

The health care facility must investigate to try and determine if caregiver misconduct has occurred. When a health care facility's investigation of an incident suggests caregiver misconduct, that incident must be reported to the Wisconsin Department of Health and Family Services, Bureau of Quality Assurance (BQA). The health care facility must also report an incident to BQA if, after their internal investigation, they are still not 100% certain that caregiver misconduct did not occur.

✓ BQA Responsibility

Once an incident is reported to the Bureau of Quality of Assurance, BQA reviews the report to determine if a follow-up investigation will be completed. If the Bureau decides to investigate, a notice is sent to the caregiver and the facility. If the Department determines that there is sufficient evidence to show that caregiver misconduct occurred, then the caregiver will receive a notice that the substantiated finding will be entered on the Wisconsin Caregiver Registry. The caregiver has the right to appeal this decision.

If a substantiated finding is entered on the Wisconsin Caregiver Registry, the caregiver is banned from working in facilities regulated by the Bureau of Quality Assurance, unless approved under the Rehabilitation Review process.

In addition, federal regulations permanently ban nurse aides with a finding of caregiver misconduct on the Caregiver Registry from working in federally-certified nursing homes or federally certified intermediate care facilities for persons with mental retardation.

CASE EXAMPLE ANSWERS

Case Example 1:
Neglect of a client: The care plan clearly states that any assisted lift is to be carried out by two caregivers. The caregiver decision to act alone was contrary to the client's treatment plan and, and through this substantial carelessness caused injury to the client - a broken hip.

Case Example 2:
Neglect of a client: The caregiver disconnected the light on purpose. Although the patient did not appear to be harmed, the disconnection of the light is contrary to the entity's policies and procedures and could reasonably be expected to cause pain or injury to a client or the death of a client.

Case Example 3:
Misappropriation of a client's property: The caregiver's use of the resident's telephone was without consent. The caregiver's actions resulted in long distance phone bills charged to the resident.

Case Example 4:
Abuse of a client: The caregiver has verbally abused the client by shouting intimidating statements that caused mental or emotional damage to a client, exhibited by anxiety, depression, and withdrawal. The client indicated her emotional pain as she begins to cry, then withdraws and does not eat with her usual appetite.

Case Example 5:
Injury of unknown source: At this time it is not known how the client hurt her arm. The caregiver could have immediately requested an examination of the arm by a doctor or other medical personnel. As the client has a fractured arm and it is not known how the fracture occurred, caregiver misconduct cannot be ruled out at this time.

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VIDEO GUIDE

STATE OF WISCONSIN
Department of Health and Family Services
Division of Supportive Living
Bureau of Quality Assurance

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